

342312003500

**TRANSMITTAL LETTER TO THE UNITED STATES  
DESIGNATED/ELECTED OFFICE (DO/EO/US)  
CONCERNING A FILING UNDER 35 U.S.C. § 371**

U.S. APPLICATION NO. (If known, see 37 CFR 1.5)

09/868,279

INTERNATIONAL APPLICATION NO.  
PCT/US99/29927

INTERNATIONAL FILING DATE

December 15, 1999

PRIORITY DATE CLAIMED

December 16, 1998

TITLE OF INVENTION

**CYCLIC PEPTIDE ANTIFUNGAL AGENT HAVING A SUGAR SUBSTITUENT**

APPLICANT(S) FOR DO/EO/US

**Michael John RODRIGUEZ, et al.**

Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items and other information:

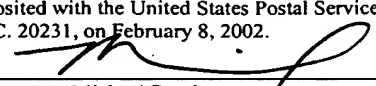
1. ☐ This is a **FIRST** submission of items concerning a filing under 35 U.S.C. 371.
2. ☒ This is a **SECOND** or **SUBSEQUENT** submission of items concerning a filing under 35 U.S.C. 371.
3. ☐ This is an express request to begin national examination procedures (35 U.S.C. 371(f)). The submission must include items (5), (6), (9) and (21) indicated below.
4. ☐ The US has been elected by the expiration of 19 months from the priority date (PCT Article 31).
5. ☐ A copy of the International Application as filed (35 U.S.C. 371(c)(2))
  - a. ☐ is attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ has been communicated by the International Bureau.
  - c. ☐ is not required, as the application was filed in the United States Receiving Office (RO/US).
6. ☐ An English language translation of the International Application under PCT Article 19 (35 U.S.C. 371(c)(2)).
  - a. ☐ is attached hereto.
  - b. ☐ has been previously submitted under 35 U.S.C. 154(d)(4).
7. ☐ Amendments to the claims of the International Application under PCT Article 19 (35 U.S.C. 371(c)(3)).
  - a. ☐ are attached hereto (required only if not communicated by the International Bureau).
  - b. ☐ have been communicated by the International Bureau.
  - c. ☐ have not been made; however, the time limit for making such amendments has NOT expired.
  - d. ☐ have not been made and will not be made.
8. ☐ An English language translation of the amendments to the claims under PCT Article 19 (35 U.S.C. 371(c)(3)).
9. ☐ An oath or declaration of the inventor(s) (35 U.S.C. 371(c)(4)).
10. ☐ An English language translation of the annexes to the International Preliminary Examination Report under PCT Article 36 (35 U.S.C. 371(c)(5)).

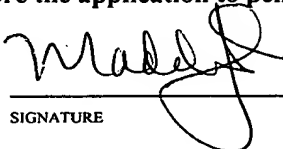
Items 11. to 16. below concern document(s) or information included:

11. ☒ An Information Disclosure Statement under 37 CFR 1.97 and 1.98. (3 Pages)
12. ☐ An assignment document for recording. A separate cover sheet in compliance with 37 CFR 3.28 and 3.31 is included.
13. ☐ A **FIRST** preliminary amendment.
14. ☐ A **SECOND** or **SUBSEQUENT** preliminary amendment.
15. ☐ A substitute specification.
16. ☐ A change of power of attorney and/or address letter.
17. ☐ A computer-readable form of the sequence listing in accordance with PCT Rule 13ter.2 and 35 U.S.C. 1.821 - 1.825.
18. ☐ A second copy of the published international application under 35 U.S.C. 154(d)(4).
19. ☐ A second copy of the English language translation of the international application under 35 U.S.C. 154(d)(4).
20. ☒ Other items or information: 1. Form PTO-1449 + copy (4 Pages); 2. 39 References, 3. Return receipt postcard.

**CERTIFICATE OF MAILING BY "FIRST CLASS MAIL"**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:  
Assistant Commissioner for Patents, Washington, D.C. 20231, on February 8, 2002.

  
Michael Boyd

U.S. APPLICATION NO. (if known, see 37 CFR 1.5)		INTERNATIONAL APPLICATION NO. 09/868,279		ATTORNEY'S DOCKET NUMBER: 342312003500	
21. <input type="checkbox"/> The following fees are submitted: <b>BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(5)):</b> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO and International Search Report not prepared by the EPO or JPO.....\$1,040.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but International Search Report prepared by the EPO or JPO.....\$890.00 International preliminary examination fee (37 CFR 1.482) not paid to USPTO but international search fee (37 CFR 1.445(a)(2)) paid to USPTO.....\$740.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO but all claims did not satisfy provision of PCT Article 33(1)-(4) .....\$710.00 International preliminary examination fee (37 CFR 1.482) paid to USPTO and all claims satisfied provisions of PCT Article 33(1)-(4) .....\$100.00				<b>CALCULATIONS PTO USE ONLY</b>	
<b>ENTER APPROPRIATE BASIC FEE AMOUNT =</b>				\$ 0	
Surcharge of \$130.00 for furnishing the oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).				\$ 0	
<b>CLAIMS</b>	<b>NUMBER FILED</b>	<b>NUMBER EXTRA</b>	<b>RATE</b>		
Total claims	23 - 23 =	0	x \$18.00	\$ 0	
Independent claims	3 - 3 =	0	x \$84.00	\$ 0	
<b>MULTIPLE DEPENDENT CLAIM(S) (if applicable)</b>			+ \$280.00	\$ 0	
<b>TOTAL OF ABOVE CALCULATIONS =</b>				\$ 0	
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. The fees indicated above are reduced by 1/2.				\$ 0	
<b>SUBTOTAL =</b>				\$ 0	
Processing fee of \$130.00 for furnishing the English translation later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(f)).				+	\$ 0
<b>TOTAL NATIONAL FEE =</b>				\$ 0	
Fee for recording the enclosed assignment (37 CFR 1.21(h)). The assignment must be accompanied by an appropriate cover sheet (37 CFR 3.28, 3.31). \$40.00 per property				+	\$ 0
<b>TOTAL FEES ENCLOSED =</b>				\$ 0	
				<b>Amount to be refunded:</b>	\$ 0
				<b>charged:</b>	\$ 0
a. <input type="checkbox"/> A check in the amount of \$* to cover the above fees is enclosed. b. <input type="checkbox"/> Please charge my <b>Deposit Account No. 03-1952</b> in the amount of \$* to cover the above fees. A duplicate copy of this sheet is enclosed. c. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge any additional fees that may be required, or credit any overpayment to <b>Deposit Account No. 03-1952</b> . A duplicate copy of this sheet is enclosed. d. <input type="checkbox"/> Fees are to be charged to a credit card. <b>WARNING:</b> Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.					
<b>NOTE: Where an appropriate time limit under 37 CFR 1.494 or 1.495 has not been met, a petition to revive (37 CFR 1.137(a) or (b)) must be filed and granted to restore the application to pending status.</b>					
<b>SEND ALL CORRESPONDENCE TO:</b>  Madeline I. Johnston Morrison & Foerster LLP 755 Page Mill Road Palo Alto, California 94304-1018					
			 SIGNATURE		
			Madeline I. Johnston Registration No. 36,174		

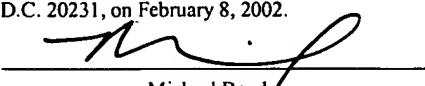


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JG10 Rec'd PCT/PTO 14 FEB 2002

PATENT  
Docket No. 342312003500

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Michael Boyd

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In the application of:

Michael John RODRIGUEZ, et al.

Serial No.: 09/868,279 ✓

371 Filing Date: June 15, 2001

For: CYCLIC PEPTIDE ANTIFUNGAL  
AGENT HAVING A SUGAR  
SUBSTITUENT ✓

Examiner: To Be Assigned

Group Art Unit: To Be Assigned

INFORMATION DISCLOSURE  
STATEMENT UNDER 37 C.F.R. § 1.97 AND § 1.98

Assistant Commissioner for Patents  
Washington, D.C. 20231

Dear Sir:

Pursuant to 37 C.F.R. § 1.97 and § 1.98, Applicants submit for consideration in the above-identified application the documents listed on the attached Form PTO-1449. Copies of the documents are also submitted herewith. The Examiner is requested to make these documents of record.

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☒ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required.
- ☐ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
  - ☐ A fee is required. A check in the amount of \* is enclosed.
  - ☐ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided below; accordingly, no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided below and a check in the amount of \* is enclosed.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided below and a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.

Applicants would appreciate the Examiner initialing and returning the Form PTO-1449, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicants petition for any required relief including extensions of time and authorize the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 342312003500. However, the Assistant Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: February 8, 2002

Respectfully submitted,

By: 

Madeline I. Johnston  
Registration No. 36,174

Morrison & Foerster LLP  
755 Page Mill Road  
Palo Alto, California 94304-1018  
Telephone: (650) 813-5840  
Facsimile: (650) 494-0792

#6

<b>Form PTO-1449</b>  <b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b>  <i>(Use several sheets if necessary)</i>	Docket Number : 342312003500	Application Number: 09/868,279
	Applicant Michael John RODRIGUEZ, et al.	
	371 Filing Date: June 15, 2001	Group Art Unit: To Be Assigned
	Mailing Date: February 8, 2002	

## U.S. PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Name	Class	Subclass	Filing Date If Appropriate
	1.	08/31/1976	3,978,210	Mizuno et al.			
	2.	10/06/1981	4,293,482	Abbott et al.			
	3.	10/06/1981	4,293,489	Debono			
	4.	11/10/1981	4,299,763	Abbott et al.			
	5.	12/08/1981	4,304,716	Abbott et al.			
	6.	03/30/1993	5,198,421	Chen et al.			
	7.	07/08/1997	5,646,111	Borromeo et al.			
	8.	07/29/1997	5,652,213	Jamison et al.			
	9.	12/02/1997	5,693,611	Henle et al.			
	10.	08/03/1997	5,932,543	Burkhardt et al.			
	11.	10/12/1999	5,965,525	Burkhardt et al.			

## FOREIGN PATENT DOCUMENTS

Examiner Initials	Ref. No.	Date	Document No.	Country	Class	Subclass	Translation YES	NO
	12.	12/11/1991	EP 0 460 882 A2, A3, B1	Europe				
	13.	10/10/1996	WO 96/31228 A1	WIPO				
	14.	11/27/1996	EP 0 744 405 A1	Europe				
	15.	11/28/1996	WO 96/37509 A1	WIPO				
	16.	11/28/1996	WO 96/37510 A1	WIPO				
	17.	11/28/1996	WO 96/37511 A1	WIPO				
	18.	11/28/1996	WO 96/37512 A1	WIPO				
	19.	02/05/1997	EP 0 757 058 A1	Europe				
	20.	02/13/1997	WO 97/05163 A1	WIPO				
	21.	05/15/1997	WO 97/17365 A1	WIPO				

EXAMINER:

DATE CONSIDERED:

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

<b>Form PTO-1449</b>  <b>INFORMATION DISCLOSURE CITATION IN AN APPLICATION</b>  <i>(Use several sheets if necessary)</i>	Docket Number : 342312003500	Application Number: 09/868,279
	Applicant  Michael John RODRIGUEZ, et al.	
	371 Filing Date: June 15, 2001	Group Art Unit: To Be Assigned
	Mailing Date: February 8, 2002	

	22.	08/07/1997	WO 97/27864 A1	WIPO				
	23.	02/11/1999	WO 99/06062 A1	WIPO				
	24.	09/02/1999	WO 99/43337 A1	WIPO				
	25.	09/22/1999	EP 0 943 623 A1	Europe				
	26.	03/02/2000	WO 00/11023 A1	WIPO				
	27.	03/09/2000	WO 00/12540 A1	WIPO				
	28.	06/22/2000	WO 00/35944 A1	WIPO				
	29.	09/08/2000	WO 00/51546 A2, A3	WIPO				
	30.	09/08/2000	WO 00/51564	WIPO				
	31.	09/08/2000	WO 00/51567	WIPO				

**OTHER DOCUMENTS***(including author, title, Date, Pertinent Pages, Etc.)*

Examiner Initials	Ref. No.	Title
	32.	Berge, S.M. et al. (January 1977). "Pharmaceutical Salts," <i>Journal of Pharmaceutical Sciences</i> , 66(1):1-19.
	33.	Collins, P.M. and Ferrier, R.J., (1995). "Monosaccharides: Their Chemistry and Their Roles in Natural Products," John Wiley and Sons, New York, NY (Table of Contents) pp.v-xiii.
	34.	Fujioka, H. and Aikawa, M. (1998) "Chapter 22: Pneumocystosis" <u>Topley and Wilson's Microbiology and Microbial Infections</u> , Volume 5, 9th Edition, Collier, L. et al., Oxford University Press Inc., New York N.Y. , pp. 431-444.
	35.	Guisseley, K.B. and Ruoff, P.M., (April 1961). "Monosaccharide Sulfates. I. Glucose 6-Sulfate. Preparations, Characterization of the Crystalline Potassium Salt, and Kinetic Studies," <i>J. Org. Chem.</i> 26:1248-1254.
	36.	Jamison, J.A. et al., (February 1998). "The Synthesis and Antifungal Activity of Nitrogen Containing Hemiaminal Ethers of LY303366," <i>Journal of Antibiotics</i> , 51(2):239-242.
	37.	Larock, R.C., (1989). "Comprehensive Organic Transformations: A Guide to Functional Group Preparations," VCH Publishers, New York, N.Y. (Index) pp.409-410.
	38.	Ruissen, A.L.A. et al., (1999). "Evaluation of the use of Xanthan as Vehicle for Cationic Antifungal Peptides," <i>Journal of Controlled Release</i> , Vol. 60:49-56.
	39.	Turner, W.W. and Rodriguez, M.J., (1996). "Recent Advances in the Medicinal Chemistry of Antifungal Agents," <i>Current Pharmaceutical Design</i> 2(2):209-224

**EXAMINER:****DATE CONSIDERED:**

EXAMINER: Initial if citation considered, whether or not the citation conforms with MPEP 609. Draw a line through the citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.